

**IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

AARON BURDEN,)	
)	Case No. 22 C 0046
Plaintiff,)	
)	Judge John Z. Lee
v.)	
)	Judge Young B. Kim
The City of Chicago, et. al.)	
)	
Defendants.)	

JOINT STATUS REPORT

I. The Nature of the Case

A. Identify the attorneys of record for each party, including the lead trial attorney.

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Counsel for named Defendant Officers

B. State the basis for federal jurisdiction.

Plaintiff brings this action pursuant to Civil Rights Act, 42 U.S.C § 1983; the Judicial Code, 28 U.S.C § 1331 and § 1343(a); the Constitution of the United States; and supplementary jurisdiction pursuant to 28 U.S.C § 1367.

C. Describe the nature of the claims asserted in the complaint and any counterclaims.

Plaintiff brings claims for unreasonable seizure, excessive force, illegal seizure of property, equal protection, failure to intervene, *Monell*, continuing torts of battery, assault, and intentional infliction of emotional distress, *respondeat superior*, and indemnification. Defendants deny any wrongdoing and bring no counterclaims.

D. A statement of the major legal and factual issues in the case to be submitted by each side in 200 words or less per side. A party need not agree to the opposing party's statement.

Defendants: the major legal and factual issues are: whether Plaintiff has a viable *Monell* claim, whether time-barred incidents can support a *Monell* claim or constitute a continuing tort, whether officers acted with reasonable articulable suspicion or probable cause under the circumstances, whether the officers used any force at all on Plaintiff, and if so, whether that force was reasonable under the totality of the circumstances, and whether the City can be held liable for the actions of the Defendant Officers via *respondeat superior* and indemnification.

Plaintiff: the major factual and legal issues are: whether Defendants' uses of force were reasonable; whether Defendants' seizures of Mr. Burden and his property were reasonable; whether the actions of Defendants constituted violations of Mr. Burden's right to equal protection under the law; and whether constitutional violations taken pursuant to and caused by municipal policies, customs, practices, and/or usages that remained consistent and in force over a period of years constitute a continuing violation by virtue of the unchanged nature of policies/customs/practices/usages at issue, in effect, and causing the violations.

E. Describe the relief sought by the plaintiff(s).

Plaintiff seeks compensatory and punitive damages, and reasonable attorney's fees and costs.

II. Pending Motions and Case Plan

A. Identify the Day/Date of the Initial Status Hearing (indicate whether a telephonic or in-person hearing has been set) (e.g., Wednesday, June 25, 20XX)

The Court set an initial (telephonic) status hearing on April 28, 2022 at 9:00am. ECF No. 15.

B. Identify All Pending Motions

Defendant City of Chicago and Defendant Officers filed partial Motions to Dismiss on April 19, 2022. ECF No. 23 and 25. The Court set a briefing schedule on both Motions to Dismiss, and Plaintiff was granted until 5/16/22 to respond and Defendants' reply is due 5/3/22. ECF No. 27.

C. Submit a proposal for a discovery plan, including the following information:

1. The general type of discovery needed;

The parties expect written and oral discovery, including possible medical providers disclosed by Plaintiff, if any. The parties further expect expert discovery on Plaintiff's Equal Protection and *Monell* claims to the degree that these claims proceed.

Defendant City asks that discovery related to Plaintiff's *Monell* claim and time barred incidents be stayed pending decision on the Motion to Dismiss.

Plaintiff opposes this request and maintains that the facts underlying all incidents of police harassment and violation of Mr. Burden, as well as information underlying the municipal policies, practices, customs, and usages that caused them, are appropriate for discovery at this time. Further, Plaintiff notes that the City's request with regard to "time barred incidents" asks the Court to prejudge legal questions at issue in the Motions to Dismiss prior to the opportunity for Plaintiff to be heard in briefing.

2. A date to issue written discovery;

Parties to issue 26(a) disclosures by June 3, 2022, and to issue written discovery by June 17, 2022.

3. A date for the deadline for the amendment of pleadings (90 days after Rule 26(a) disclosures are exchanged).

September 1, 2022

4. A fact discovery completion date;

The parties propose December 19, 2022 if *Monell* is not part of the case, and May 19, 2023 if it remains.

5. An expert discovery completion date, including dates for the delivery of expert reports; and

The parties propose May 31, 2023 expert discovery completion date if *Monell* is not a part of the case, with opening expert reports delivered by March 1, 2023 and rebuttal reports delivered by April 1, 2023.

The parties propose October 19, 2023 expert discovery completion date if *Monell* is part of the case, with opening expert reports delivered by June 29, 2023 and rebuttal reports delivered by July 28, 2023.

6. A date for the filing of dispositive motions.

If there is expert discovery, the parties propose July 14, 2023 if *Monell* is not a part of the case, and December 1, 2023 if it remains.

If there is no expert discovery, the parties propose February 14, 2023.

D. With respect to trial, indicate the following:

1. Whether a jury trial is requested; and

Plaintiff and Defendants have made jury demands.

2. The probable length of trial

The parties expect a trial to last 5-7 days as to the underlying claims. Defendants expect that if Plaintiff's *Monell* claims go to trial it could add up to 5 additional days.

III. Consent to Proceed Before a Magistrate Judge Indicate whether the parties consent unanimously to proceed before a Magistrate Judge.

The parties do not unanimously consent to proceed before the Magistrate Judge.

IV. Status of Settlement Discussions

A. Indicate whether any settlement discussions have occurred;

Settlement discussions have not occurred.

B. Describe the status of any settlement discussions; and

N/a

C. Whether the parties request a settlement conference.

Defendants do not request a settlement conference at this time.

Dated: 4/22/22

Respectfully Submitted,

/s/ Danielle Alvarez Clayton

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CERTIFICATE OF SERVICE

I hereby certify that on April 22, 2022, I served the foregoing document upon all counsel of record by filing a copy with the Clerk of the Northern District of Illinois using the Court's electronic filing system.

/s/ Danielle Alvarez Clayton
Assistant Corporation Counsel III